Civil Writ Petition No.10498 of 2005.

IN THE HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH

...

Date of Decision: December 17, 2007

Indira Natrajan **...** Petitioner

VERSUS

The Corporation Bank through its Chairman, Mangla Devi Temple Road, Mangalore (Karnatka) ... Respondents

CORAM : **HON'BLE MR.JUSTICE HEMANT GUPTA.**
HON'BLE MR. JUSTICE MOHINDER PAL.

1. Whether Reporters of Local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Vipin Mahajan, Advocate,
for the petitioner.

Mr. Harpreet Singh Hundal, Advocate,
for the respondents.

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MOHINDER PAL, J.

The petitioner was inducted into the service of Corporation Bank (hereinafter referred to as the `respondent-Bank') as a Probationary Officer (Junior Management Grade-I) on May 28, 1985, through Banking Service Recruitment Board and confirmed as such in the year 1987. She was promoted as

Middle Management Grade-II with effect from December 04, 2001. She was posted as Branch Manager, Bhatinda Branch, of the respondent-Bank on July 28, 2003. It has been averred in the petition that on November 29, 2003, she was given oral instructions by Assistant General Manager Mr. M.N.V.V.S. Prabhakar to carry out surprise checking of cash and valuables at Sikanderpur Branch, which the petitioner did and submitted her report on December 04, 2003.

As the petitioner was suffering from Vertigo and was posted at a far off place from her husband, she submitted her resignation vide notice dated December 05, 2003 (Annexure P-1) requesting therein to waive the notice period and release her from the service of the Bank by December 31, 2003. The petitioner also submitted a Demand Draft towards the salary in lieu of the notice period. However, the respondent-Bank served upon the petitioner a charge sheet dated April 30, 2004 (Annexure P-5) on the ground that she conducted surprise verification of cash and valuables at Sikanderpur Branch on December 04, 2003 without any written order and left the headquarters on November 29, 2003 without permission besides pointing out that she had sanctioned certain loans and credit facilities in violation of the guide-lines and procedure while posted at Bathinda Branch.

On receipt of the charge sheet, the petitioner wrote two letters dated May 27, 2004 (Annexure P-6) and July 10, 2004 (Annexure P-7) requesting the Bank authorities to supply her

the copies of relevant documents, mentioned in the list of documents appended with the charge sheet. She was informed vide letter dated June 08, 2004 that she should first submit reply to the charge sheet and documents would be supplied to her thereafter. The respondent-Bank, without supplying the copies of relevant documents to the petitioner, started ex parte inquiry proceedings against her and she was held guilty of the charges levelled. Copy of the inquiry report was supplied to her vide letter dated August 04, 2004 (Annexure P-8). The petitioner filed representation dated August 23, 2004 (Annexure P-9) against the findings contained in the inquiry report. The Deputy General Manager (respondent No.3), acting as a Disciplinary Authority, imposed upon the petitioner the major punishment of removal from service vide order dated September 23, 2004 (Annexure P-10). She filed appeal dated November 09, 2004 (Annexure P-11) against this order, in which she made a request for personal hearing. It is averred that the Appellate Authority, vide order dated February 25, 2005 (Annexure P-12), dismissed her appeal without adhering to the principles of natural justice. In this petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari quashing the orders dated September 23, 2004 (Annexure P-10) passed by the Disciplinary Authority and dated February 25, 2005 (Annexure P-12) passed by the Appellate Authority. She has also prayed for issuance of a writ of mandamus directing the respondents to accept her resignation

with effect from the due date and release all the terminal benefits due to her.

In the reply filed by the respondent-Bank, it has been stated that copies of relevant documents were supplied to the petitioner and the order passed by the Disciplinary Authority was passed strictly in accordance with the procedure prescribed for major penalties, as contained in Corporation Bank Officer Employees' (Discipline and Appeal) Regulations, 1982 (hereinafter referred to as `the Regulations'). It has been further stated that there is no provision for affording personal hearing under the Regulations and that the Appellate Authority dismissed the appeal filed by the petitioner after taking into consideration all the grounds raised by her.

We have heard the learned counsel for the parties at some length and are of the opinion that the order of imposing major penalty of removal from service has been passed against the petitioner without following the prescribed procedure. The petitioner had submitted her resignation on December 05, 2003, requesting to waive the notice period of three months and to release her from the service of the respondent-Bank by December 31, 2003. Nothing was conveyed to the petitioner within these three months. She was not supplied the relevant documents to file her reply to the charge sheet. A perusal of the order passed by the Disciplinary Authority dated September 23, 2004 (Annexure P-10) shows that past record of service of the petitioner was also taken into account while passing this

order. Admittedly, no notice was ever issued to her that her past record would also be considered by the Disciplinary Authority although it is well-settled that neither the Inquiry Officer nor the Disciplinary Authority/Appellate Authority can go beyond the scope of the charge sheet. Learned counsel for the petitioner has cited the case of **Kailash Nath Gupta v. Inquiry Officer (R.K.Rai), Allahabad Bank & Ors., 2003 (3) SLR 1** to contend that the punishment imposed upon the petitioner is disproportionate to the alleged charges. In the said case, it was held that the punishment of dismissal from service on account of procedural irregularities is totally unjustified. The petitioner therein was an Officer in Allahabad Bank and disciplinary proceedings were initiated against him on account of certain irregularities. The Bank terminated his services on the ground that he advanced loans to borrowers without following requisite requirements. The Apex Court, after considering certain judgments, held that where reading of various articles of charge go to show that at the most there was some procedural irregularities which could not be termed to be negligence to warrant the extreme punishment of removal from service, the Court can exercise its power of interference with the quantum of punishment. In the present case, the petitioner is also charged with such procedural irregularities. However, once we have held that there was procedural irregularity in conducting the inquiry against the petitioner as she was not supplied with copies of relevant documents and her past record of service was

also considered without issuing any notice in this regard, the question of interference in the quantum of punishment does not arise.

Consequently, this writ petition is disposed of with a direction to the respondents to supply to the petitioner copies of all the documents mentioned in the list of documents annexed with the charge sheet and conduct inquiry against her from that stage after the petitioner submits her reply to the charge sheet. Resultantly, the order dated September 23, 2004 (Annexure P-10) passed by the Disciplinary Authority and the order dated February 25, 2005 (Annexure P-12) passed by the Appellate Authority are quashed.

(HEMANT GUPTA)
JUDGE

(MOHINDER PAL)
JUDGE

December 17, 2007.
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